

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPREME COURT OF THE
STATE OF NEVADA

FILED

JUN 11 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

In the Matter of)
)
THE HONORABLE ERIKA BALLOU,)
District Court Judge, Eighth Judicial District)
Court, Clark County, State of Nevada,)
)
Respondent.)

NO. 88812

Case No.: 2022-173-P

Case Nos.: 2022-124-P and 2022-134-P

**CERTIFIED COPY OF STIPULATION AND ORDER OF
CONSENT TO PUBLIC CENSURE**

Pursuant to Commission Procedural Rule 29, I hereby certify that the document attached hereto is a true and correct copy of the STIPULATION AND ORDER OF CONSENT TO PUBLIC CENSURE filed with the Nevada Commission on Judicial Discipline on June 11, 2024.

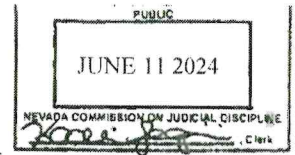
DATED this 11th day of June, 2024.

NEVADA COMMISSION
ON JUDICIAL DISCIPLINE
P.O. Box 18123
Reno, NV 89511
(775) 687-4017

By: 

PAUL C. DEYHLE
General Counsel and Executive Director
Nevada Bar No. 6954

24-20351



BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

IN THE MATTER OF THE HONORABLE,
ERIKA BALLOU, District Court Judge,
Eighth Judicial District Court, Clark County,
State of Nevada,

Case No.: 2022-173-P
Case Nos.: 2022-124-P and 2022-134-P

Respondent.

STIPULATION AND ORDER OF CONSENT TO PUBLIC CENSURE

In order to resolve the Formal Statements of Charges pending before the Nevada Commission on Judicial Discipline (the “Commission”), the Respondent, Honorable ERIKA BALLOU, District Court Judge, Eighth Judicial District Court, Clark County, State of Nevada (“Respondent” or “Judge Ballou”), and the Commission stipulate to the following pursuant to Commission Procedural Rule 29:

I. Case No.: 2022-173-P

1. Respondent admits that she violated Canon 1 of the Revised Nevada Code of Judicial Conduct (“Code”), Rule 1.1, requiring Respondent to comply with the law, including the Code; and Rule 1.2, requiring the Respondent to act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary and avoiding impropriety and the appearance of impropriety; Canon 2, Rule 2.1, requiring Respondent’s duties of judicial office, as prescribed by law, to take precedence over all of Respondent’s personal and extrajudicial activities; and Rule 2.4(C), requiring Respondent to not convey or permit others to convey the impression that any person or organization is in a position to influence the Respondent, and Canon 3, Rule 3.1(C), requiring Respondent to not participate in activities that would appear to a reasonable person to undermine the Respondent’s independence, integrity, or impartiality, or either of these rules, in her capacity as a district court judge in and for the Eighth Judicial District Court, in Clark County, State of Nevada, by knowingly or unknowingly engaging in an act, a combination of acts, or all of the following acts, which occurred during the circumstances stated below:

A. While attending a music festival on Sunday, September 19, 2021, Judge

1 Ballou published an inappropriate statement about her judicial duties on social media. At 10:46
2 p.m., Judge Ballou posted on Instagram, “Life is STILL beautiful, despite the fact that Billie
3 Eilish doesn’t START for 30 minutes and I have an 8:30 calendar tomorrow,” and included
4 hashtags, “VacateTheShitOuttaOutofCustodyCases” and “WhereInTheWorldIsCarmenSanDiego.”

5 B. In April of 2022, Judge Ballou published an inappropriate statement on
6 social media. Judge Ballou posted a photograph on her Facebook page of herself in a hot tub
7 with two public defenders, one female and one male, with the caption, “Robson is surrounded by
8 great tits.”

9 C. Respondent notes the following mitigating factors:

10 (i) Despite the Instagram post described in section I, paragraph (1)
11 (A) above, Respondent did not vacate or continue any hearings in her court.

12 (ii) The public defenders in the Facebook post described in section I,
13 paragraph (1) (B) above did not have any improper influence over Respondent.

14 (iii) Respondent intended the posts described in section I, paragraphs
15 (1) (A) and (B) above to be private and not publicly disseminated.

16 2. Respondent admits to all the allegations and mitigating factors in section I,
17 paragraph (1) (A) through (C) as set forth above.

18 3. Respondent agrees to waive her right to present her case and contest the
19 allegations in the information set forth above in a formal hearing pursuant to Commission
20 Procedural Rule 18. Respondent also agrees that this Stipulation and Order of Consent to Public
21 Censure (“Order”) takes effect immediately, pursuant to Commission Procedural Rule 29. The
22 Commission accepts Respondent’s waiver of said right and acknowledges and agrees to the
23 immediate effect of this Order.

24 4. Respondent agrees and acknowledges that this Order will be published on the
25 Commission’s website and filed with the Clerk of the Nevada Supreme Court.

26 5. Respondent and the Commission hereby stipulate to Respondent’s consent to
27 public censure pursuant to Commission Procedural Rule 29. Notwithstanding the mitigating
28 factors (as noted above), Respondent nevertheless stipulates to the following substantive

1 provisions:

2 A. She understands the evidence available to the Commission would establish
3 by clear and convincing proof that she violated the Code, including Canon 1, Rules 1.1 and 1.2;
4 Canon 2, Rules 2.1 and 2.4(C); and Canon 3, Rule 3.1(C).

5 B. She further understands that her words and/or actions described in this
6 matter merit the specific discipline stipulated to herein.

7 C. She agrees the discipline of a public censure is justified and authorized by
8 Article 6, Section 21(1) of the Nevada Constitution; NRS 1.4653; NRS 1.4677(1)(a); NRS
9 1.4694; and Commission Procedural Rule 29.

10 D. She stipulates to a public censure for violations of the Judicial Canons and
11 Rules as set forth above in section I, paragraph (1) (A) through (B).

12 E. Within four (4) months of the filing date of this Order, she agrees to (1)
13 complete the National Judicial College online course entitled, “Judicial Ethics and Social Media:
14 A Lightning Course”, and (2) review and familiarize herself with the Judicial Conduct Reporter
15 (a publication of the National Center for State Courts Center for Judicial Ethics), Volume 39, No.
16 1 (Spring 2017) Edition entitled, “Social media and judicial ethics: Part 1”, and Volume 39, No.
17 2 (Summer 2017) Edition entitled, “Social media and judicial ethics: Part 2”.

18 6. In consideration of Respondent entering into this Order, and to save the time and
19 expense of proceeding to a public hearing, the Commission has agreed to not amend the Formal
20 Statement of Charges or pursue a separate Commission action for Respondent posting on
21 Facebook, on or about January 27 or 28, 2024, in response to the Commission’s filing of public
22 charges in this matter, the lyrics of rapper Cardi B’s song, “Get up 10”.

23 7. The Respondent understands and agrees that, by accepting the terms of this Order,
24 she waives her right to appeal to the Nevada Supreme Court, pursuant to Rule 3D of the Nevada
25 Rules of Appellate Procedure. Respondent also waives all other forms of extraordinary relief for
26 purposes of challenging this Order.

27 ///

28 ///

1 **II. Case Nos.: 2022-124-P and 2022-134-P**

2 1. Respondent admits that she violated Canon 1 of the Revised Nevada Code of
3 Judicial Conduct (“Code”), Rule 1.1, requiring Respondent to comply with the law, including the
4 Code; and Rule 1.2, requiring the Respondent to act at all times in a manner that promotes public
5 confidence in the independence, integrity and impartiality of the judiciary and avoiding
6 impropriety and the appearance of impropriety; and Canon 2, Rule 2.2, requiring Respondent to
7 uphold and apply the law, and perform all duties of judicial office fairly and impartially; and
8 Rule 2.3(A) and (B), requiring Respondent to perform the duties of judicial office without bias or
9 prejudice, and to not, by words or conduct, manifest bias or prejudice, or either of these rules, in
10 her capacity as a district court judge in and for the Eighth Judicial District Court, in Clark
11 County, State of Nevada, by knowingly or unknowingly engaging in an act, a combination of
12 acts, or all of the following acts, which occurred during the circumstances stated below:

13 A. On November 10, 2021, at a sentencing hearing in *State v. Marshal*
14 *Bonner*, C-21-356579-1 (involving a defendant’s decision to flee from police in a vehicle pursuit
15 on the Las Vegas Strip), in response to the prosecutor arguing that there was no reason for the
16 defendant to run from the police, Respondent made the following statements to the prosecutor:
17 “[a]nd there being no reason to run from the police, clearly you’re not a black person in the
18 United States of America, because there are absolute reasons to run from the police”, and “[s]o
19 just as someone who, you know, has lived in the United States as a black person, that’s absolutely
20 an untrue statement that he didn’t have any reason to run.”

21 B. On July 11, 2022, at a suspended sentence revocation hearing in *State v.*
22 *Lamar Stringer*, C-21-359532-1, Respondent made the following statements to the defendant:
23 “[y]ou’re a black man in America, you know you don’t want to be around where cops are”, and
24 “[y]ou know you don’t want to be nowhere where cops are because I know I don’t and I’m a
25 middle aged, middle class black woman. I don’t want to be around where cops are because I
26 don’t know if I’m going to walk away alive or not.”

27 C. Respondent notes the following mitigating factors:

28 (i) Respondent has not had any prior disciplinary action imposed

1 against her by the Commission.

2 (ii) No prosecuting agency (district attorney or attorney general) has
3 sought Respondent's recusal in any criminal matter for bias or prejudice against any law
4 enforcement agency, or for showing preferential treatment to anyone.

5 (iii) In her opinion, Respondent is known to praise the police;

6 (iv) In her opinion, neither statement made by Respondent in section II,
7 paragraphs (1) (A) and (1) (B) above is untrue.

8 2. Respondent admits to all the allegations and mitigating factors in section II,
9 paragraph (1) (A) through (C) as set forth above.

10 3. Respondent agrees to waive her right to present her case and contest the
11 allegations in the information set forth above in a formal hearing pursuant to Commission
12 Procedural Rule 18. Respondent also agrees that this Stipulation and Order of Consent to Public
13 Censure ("Order") takes effect immediately, pursuant to Commission Procedural Rule 29. The
14 Commission accepts Respondent's waiver of said right and acknowledges and agrees to the
15 immediate effect of this Order.

16 4. Respondent agrees and acknowledges that this Order will be published on the
17 Commission's website and filed with the Clerk of the Nevada Supreme Court.

18 5. Respondent and the Commission hereby stipulate to Respondent's consent to
19 public censure pursuant to Commission Procedural Rule 29. Notwithstanding the mitigating
20 factors (as noted above), Respondent nevertheless stipulates to the following substantive
21 provisions:

22 A. She understands the evidence available to the Commission would establish
23 by clear and convincing proof that she violated the Code, including Canon 1, Rules 1.1 and 1.2;
24 and Canon 2, Rules 2.2 and 2.3(A) and (B).

25 B. She further understands that her statements described in this matter merit
26 the specific discipline stipulated to herein.

27 C. She agrees the discipline of a public censure is justified and authorized by
28 Article 6, Section 21(1) of the Nevada Constitution; NRS 1.4653; NRS 1.4677(1)(a); NRS

1 1.4694; and Commission Procedural Rule 29.

2 D. She stipulates to a public censure for violations of the Judicial Canons and
3 Rules as set forth above in section II, paragraph (1) (A) through (B).

4 6. The Respondent understands and agrees that, by accepting the terms of this Order,
5 she waives her right to appeal to the Nevada Supreme Court, pursuant to Rule 3D of the Nevada
6 Rules of Appellate Procedure. Respondent also waives all other forms of extraordinary relief for
7 purposes of challenging this Order.

8

9

ORDER

10 **I. Case No.: 2022-173-P**

11 IT IS HEREBY ORDERED that Respondent is hereby publicly censured for violating the
12 Code, Canon 1, Rules 1.1 and 1.2; Canon 2, Rules 2.1 and 2.4(C); and Canon 3, Rule 3.1(C).

13 IT IS FURTHER ORDERED that Respondent shall within four (4) months of the filing
14 date of this Order (1) complete the National Judicial College online course entitled, “Judicial
15 Ethics and Social Media: A Lightning Course”, and (2) review and familiarize herself with the
16 Judicial Conduct Reporter (a publication of the National Center for State Courts Center for
17 Judicial Ethics), Volume 39, No. 1 (Spring 2017) Edition entitled, “Social media and judicial
18 ethics: Part 1”, and Volume 39, No. 2 (Summer 2017) Edition entitled, “Social media and
19 judicial ethics: Part 2”.

20 IT IS FURTHER ORDERED that the Executive Director of the Commission take the
21 necessary steps to file this document in the appropriate records and on the website of the
22 Commission and with the Clerk of the Nevada Supreme Court.

23 **II. Case Nos.: 2022-124-P and 2022-134-P**

24 IT IS HEREBY ORDERED that Respondent is hereby publicly censured for violating the
25 Code, Canon 1, Rules 1.1 and 1.2; and Canon 2, Rules 2.2 and 2.3(A) and (B).

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that the Executive Director of the Commission take the necessary steps to file this document in the appropriate records and on the website of the Commission and with the Clerk of the Nevada Supreme Court.

DATED: May 30, 2024

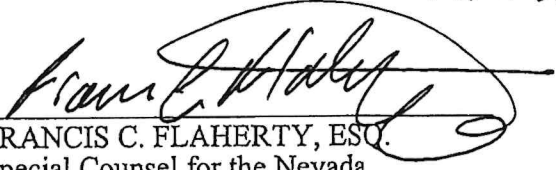
DATED: May 30, 2024

/s/ ERIKA BALLOU

ERIKA BALLOU
Respondent

DYER LAWRENCE, LLP

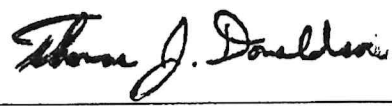
SBN #5303


FRANCIS C. FLAHERTY, ESQ.
Special Counsel for the Nevada
Commission on Judicial Discipline
Case No.: 2022-173-P

DATED: May 30, 2024

DYER LAWRENCE, LLP

SBN #5283


THOMAS J. DONALDSON, ESQ.
Special Counsel for the Nevada
Commission on Judicial Discipline
Case Nos.: 2022-124-P and 2022-134-P

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NEVADA COMMISSION ON JUDICIAL DISCIPLINE

The Commissioners listed below accept the terms of this Stipulation and Order of Consent to Public Censure. They further authorize the Chairman, if requested, to sign on behalf of the Commission, as a whole, this document containing the Stipulation and Order of Consent to Public Censure.


While the Commission concurs with the public censure for each of the matters at issue, the Commission takes issue with the alleged mitigating factors. Mitigating factors are facts or situations that do not justify or excuse a wrongful act or offense but that reduce the degree of culpability. *See* CIRCUMSTANCE, Black's Law Dictionary (11th ed. 2019); *see also* Nevada Supreme Court Rule 102.5. As to Case No. 2022-173-P, the representation that “[d]espite the Instagram post described in section I, paragraph (1) (A) above, Respondent did not vacate or continue any hearings in her court” is a verifiable and valid mitigating factor, and the same can be said as to the representation in Case No.’s 2022-124-P and 2022-134-P, that “Respondent has not had any prior disciplinary action imposed against her by the Commission.” However, the representation that “[n]o prosecuting agency (district attorney or attorney general) has sought Respondent’s recusal in any criminal matter for bias or prejudice against any law enforcement agency, or for showing preferential treatment to anyone” is verifiably untrue as of April 24, 2024, prior to the date of the Stipulation. *See* Eighth Judicial District Court Case No. C-13-287140-2. Additionally, the remainder of the mitigation factors cited and relied upon by Respondent are not mitigating; are opinion; or are otherwise not verifiable.

///
///
///
///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

To the extent such alleged mitigating factors are imputed as being relied upon and accepted by the Commission in support of the adoption of the Stipulation, they are rejected.

Signed by:



GARY VAUSE, CHAIRMAN

STEFANIE HUMPHREY, VICE-CHAIR
KARL ARMSTRONG
PATRICIA HALSTEAD
HON. DAVID HARDY
JOHN KRMPOTIC
HON. THOMAS STOCKARD

Dated:

June 11, 2024

=

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline and that on the 11th day of June, 2024, I served a copy of the CERTIFIED COPY OF STIPULATION AND ORDER OF CONSENT TO PUBLIC CENSURE by email and U.S. Mail, addressed to the following:

TOM PITARO
ATTORNEY AT LAW
601 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NV 89101
pitaro@gmail.com
Counsel for Respondent

FRANCIS "FRANK" C. FLAHERTY
DYER LAWRENCE
2805 MOUNTAIN STREET
CARSON CITY, NV 89703
fflaherty@dyerlawrence.com
Special Counsel

THOMAS J. DONALDSON
DYER LAWRENCE
2805 MOUNTAIN STREET
CARSON CITY, NV 89703
TDonaldson@dyerlawrence.com
Special Counsel

By: 
Kadie Seghieri, Commission Clerk